

IN THE MUNICIPAL COURT OF THE CITY OF TIGARD
COUNTY OF WASHINGTON, STATE OF OREGON

In the Matter of

RESETS OF ARRAIGNMENTS,
TRIALS AND HEARINGS

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Order No. 05-24
Supplemental Court Rule

IT IS HEREBY ORDERED as follows:

1. ARRAIGNMENTS: Upon request by the defendant in any traffic infraction, the court clerk may reset a scheduled arraignment to a date not later than two weeks following the original date on the face of the citation. Any defendant seeking to set over an arraignment more than two weeks following the original date shall post security in the sum of \$90.00 or 20% of the total base fine stated on the citation, whichever is greater.

2. TRIALS: No request by a defendant to reset a trial date shall be considered unless the defendant first posts security in the sum of \$90.00 or 20% of the total base fine stated on the citation, whichever is greater. Trials may be reset upon the following additional conditions:

a) FIRST SETTING: The court clerk shall reset a first trial setting upon request of either party, provided the request is made by telephone, in person or in writing no later than three calendar days prior to the trial date.

i. For trials set on a Thursday, the request shall be made no later than 5:00 p.m. on the preceding Monday. For trials set on a Monday, the request shall be made no later than 5:00 p.m. on the previous Wednesday.

b) SECOND SETTING: Requests for a second reset of trial must be timely filed in conformance with paragraph 2 (a) above. The court may grant the request if the written submission demonstrates reasonable grounds for the party's inability to appear at the scheduled time, subject to the provisions of paragraph 5 below. A matter set over for trial after a second setting shall be set for trial on a date certain, as provided in paragraph 4 below.

c) Setovers on short notice: Setover requests submitted less than three calendar days prior to the trial date shall be denied except on a showing of:

- i) Serious illness or injury of a party, attorney or pivotal witness;
- ii) Medical emergency or funeral of family member or close friend of a party, attorney, or pivotal witness;
- iii) Calendaring errors by court personnel; or,

- iv) Other factors which could not have reasonably been anticipated until at or near the time the motion was made.

3. ATTORNEY TRIALS OR HEARINGS: In cases where the defendant and the City are represented by attorneys, the attorney requesting a reset shall provide timely notice thereof to the opposing attorney. All requests for reset of a trial date or hearing shall be made in conformity with UTCR 6.030. Scheduling conflicts shall be resolved by the court pursuant to the standards set forth in UTCR 6.040.

4. DATE-CERTAIN SETTINGS: A third trial setting, and any subsequent setting, shall be deemed a "date certain" in accordance with this rule.

- a) Attorney trials: Immediately after a trial has been reset for the second or subsequent time by either party, the court clerk shall send a proposed trial date by mail or facsimile transmission to the attorneys of record. If either party objects to the proposed trial date, that party shall file a written statement of objection no later than 14 days after the notice of trial date has been sent by the court clerk. The statement shall include an alternative trial date which has been accepted by the opposing party. Upon receipt of the written objection, the court clerk shall set the trial for the alternate date accepted by both parties, provided that the court can accommodate that date. No resets shall be permitted in the absence of a timely written objection in accordance with this paragraph.
- b) Resets of date-certain cases: No reset of a date-certain case shall be permitted unless the moving party can demonstrate one or more of the following circumstances:
 - i) Serious illness or injury of a party, attorney or pivotal witness;
 - ii) Medical emergency or funeral of family or close friend of a party, attorney, or pivotal witness;
 - iii) Calendaring errors by court personnel; or,
 - iv) Other factors which could not have reasonably been anticipated until at or near the time the motion was made.

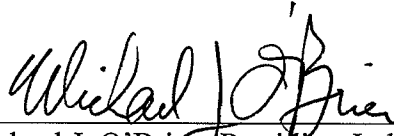
5. FACTORS UNLIKELY TO RESULT IN POSTPONEMENT: The following is a nonexclusive list of factors that are unlikely to result in postponement of a second, date-certain or subsequent trial setting:

- i) Failure to complete discovery;
- ii) Failure to locate, schedule or subpoena witnesses until shortly before trial;
- iii) Interference with vacations or training programs, scheduled after a subpoena or trial setting notice has been issued;
- iv) Failure to adequately prepare for trial; and,

- v) Factors that were known or should have been anticipated, but were not brought to the court's attention until shortly before trial.

6. RELIEF FROM DEFAULT JUDGMENTS: A request for relief from a default judgment in civil and traffic cases must be submitted in writing with payment in the sum of \$90.00 or 20% of the total default judgment imposed by the court, whichever is greater, unless otherwise ordered by the court. The written request must show "that the failure of the defendant to appear was due to mistake, inadvertence, surprise or excusable neglect," as provided by ORS 153.105. If a motion for relief from a default judgment is allowed, the matter shall be set for trial, arraignment or first appearance, as appropriate.

DATED this 31st day of March, 2005.

A handwritten signature in black ink, appearing to read "Michael J. O'Brien", is written over a horizontal line.

Michael J. O'Brien, Presiding Judge
Tigard Municipal Court